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| APPLICATION NO.                           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/957,470                                | 09/21/2001  | Naoki Yoshioka       | 010871              | 2597             |
| 38834                                     | 7590        | 11/07/2005           | EXAMINER            |                  |
| WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP |             |                      | BUSHY, CHARLES S    |                  |
| 1250 CONNECTICUT AVENUE, NW               |             |                      | ART UNIT            | PAPER NUMBER     |
| SUITE 700                                 |             |                      |                     |                  |
| WASHINGTON, DC 20036                      |             |                      | 1724                |                  |

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/957,470             | YOSHIOKA ET AL.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Scott Bushey           | 1724                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 September 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 19-23,30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 22 and 31 is/are allowed.
- 6) Claim(s) 19 and 30 is/are rejected.
- 7) Claim(s) 20,21 and 23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 19 and 30 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Zhao et al (Fig. 4; col. 5, lines 13-67; col. 6, lines 1-6, 55-67; col. 7, lines 1-18).

Applicant should note that the orifice member is formed by the unnumbered element of Figure 4, which has recess (137), such member forming the gap around the end of the internal conduit (144) of the double conduit (136,144) through which the atomization gas is spouted. The reference vaporizer further includes a nozzle ring (142), which is provided at the tip of the atomization section in the vicinity of the end of the internal conduit (144). The nozzle ring (142) is heated and provides a vaporization surface (146), which prevents the liquid substance, which has been vaporized from re-condensing (note col. 6, lines 2-4). It should further be noted that the element (104) including the cooling channels (134) are considered to anticipate the cooling member provided around the transfer conduit and in contact with the external conduit, as newly added to claim 19. Furthermore, it is clear that the orifice member, as well as the

cooling member extend around the broadly recited "end portion" of the internal conduit and transfer conduit, respectively.

***Allowable Subject Matter***

3. Claims 22 and 31 are allowed, claim 22 for the reasons of record, and claim 31 for the reasons as set forth in the Advisory Action mailed August 4, 2005.
4. Claims 20, 21, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed September 29, 2005 have been fully considered but they are not persuasive. Applicant's arguments in support of patentability of claims 19 and 30 have been addressed in the rejection statement above.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey  
Primary Examiner  
Art Unit 1724

csb  
11-3-05

  
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